

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1082, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 10-1-11 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2003]:
- 5 **Chapter 11. Retailer Education Program**
- 6 **Sec. 1. As used in this chapter, "chemical reagents or**
- 7 **precursors" has the meaning set forth in IC 35-48-4-14.5.**
- 8 **Sec. 2. As used in this chapter, "superintendent" refers to the**
- 9 **superintendent of the department.**
- 10 **Sec. 3. The superintendent in consultation with local law**
- 11 **enforcement agencies may develop and maintain a program to**
- 12 **inform retailers about illicit methamphetamine production,**
- 13 **distribution, and use in Indiana.**
- 14 **Sec. 4. The superintendent in consultation with local law**
- 15 **enforcement agencies may develop procedures and forms for**

1 retailers to use to report to the department or another law
 2 enforcement agency suspicious purchases, thefts, or other
 3 transactions involving any product under the retailers' control that
 4 contains chemical reagents or precursors.

5 **Sec. 5.** A retailer is not required to report to the department
 6 under this chapter.

7 **Sec. 6.** A retailer who makes a good faith report to the
 8 department or another law enforcement agency under this chapter
 9 is immune from civil liability for making the report.

10 SECTION 2. IC 34-30-2-35.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2003]: **Sec. 35.5. IC 10-1-11-6 (Concerning**
 13 **a retailer who makes a good faith report relating to the sale of a**
 14 **methamphetamine chemical reagent or precursor).**

15 SECTION 3. IC 35-48-1-9.3 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2003]: **Sec. 9.3. (a) "Controlled substance analog" means a**
 18 **substance:**

19 (1) the chemical structure of which is substantially similar to
 20 that of a controlled substance included in schedule I or II and
 21 that has; or

22 (2) that a person represents or intends to have;
 23 a narcotic, stimulant, depressant, or hallucinogenic effect on the
 24 central nervous system substantially similar to or greater than the
 25 narcotic, stimulant, depressant, or hallucinogenic effect on the
 26 central nervous system of a controlled substance included in
 27 schedule I or II.

28 (b) The definition set forth in subsection (a) does not include:

29 (1) a controlled substance;

30 (2) a substance for which there is an approved new drug
 31 application;

32 (3) a substance for which an exemption is in effect for
 33 investigational use by a person under Section 505 of the
 34 federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat.
 35 1052 (21 U.S.C. 355)), to the extent that conduct with respect
 36 to the substance is permitted under the exemption; or

37 (4) a substance to the extent not intended for human
 38 consumption before an exemption takes effect regarding the

1 **substance.**

2 SECTION 4. IC 35-48-4-0.5 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2003]: **Sec. 0.5. For purposes of this chapter, a "controlled**
5 **substance analog" is considered to be a controlled substance in**
6 **schedule I if the analog is in whole or in part intended for human**
7 **consumption.**

8 SECTION 5. IC 35-48-4-4.6, AS AMENDED BY P.L.150-1999,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2003]: Sec. 4.6. (a) A person who knowingly or intentionally:

- 11 (1) manufactures;
- 12 (2) finances the manufacture of;
- 13 (3) advertises;
- 14 (4) distributes; or
- 15 (5) possesses with intent to manufacture, finance the manufacture
- 16 of, advertise, or distribute;

17 a substance described in section 4.5 of this chapter commits a Class C
18 felony.

19 (b) A person who knowingly or intentionally possesses a substance
20 described in section 4.5 of this chapter commits a Class C
21 misdemeanor. However, the offense is a Class A misdemeanor if the
22 person has a previous conviction under this section.

23 (c) In any prosecution brought under this section it is not a defense
24 that the person believed the substance actually was a controlled
25 substance.

26 (d) This section does not apply to the following:

- 27 (1) The manufacture, financing the manufacture of, processing,
- 28 packaging, distribution, or sale of noncontrolled substances to
- 29 licensed medical practitioners for use as placebos in professional
- 30 practice or research.
- 31 (2) Persons acting in the course and legitimate scope of their
- 32 employment as law enforcement officers.
- 33 (3) The retention of production samples of noncontrolled
- 34 substances produced before September 1, 1986, where such
- 35 samples are required by federal law.

36 ~~(e) In addition to any other penalty imposed for conviction of an~~
37 ~~offense under this section; a court shall order restitution pursuant to~~
38 ~~IC 35-50-5-3 to cover the costs of an environmental cleanup incurred~~

by a law enforcement agency or other person as a result of the offense.

(f) The amount collected under subsection (e) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (e).

SECTION 6. IC 35-48-4-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.3. A person who recklessly, knowingly, or intentionally takes or allows a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a building, structure, vehicle, or other place that is being used by any person to:**

(1) unlawfully possess drugs or controlled substances; or

(2) unlawfully:

(A) manufacture;

(B) keep;

(C) offer for sale;

(D) sell;

(E) deliver; or

(F) finance the delivery of;

drugs or controlled substances;

commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

SECTION 7. IC 35-48-4-14.5, AS AMENDED BY P.L.17-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:**

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

- 1 (10) Ether.
- 2 (11) Sulfuric acid.
- 3 (12) Red phosphorous.
- 4 (13) Iodine.
- 5 (14) Sodium hydroxide (lye).
- 6 (15) Potassium dichromate.
- 7 (16) Sodium dichromate.
- 8 (17) Potassium permanganate.
- 9 (18) Chromium trioxide.
- 10 (b) A person who possesses ~~anhydrous ammonia or ammonia~~
 11 ~~solution (as defined in IC 22-11-20-1)~~ **one (1) or more chemical**
 12 **reagents or precursors** with the intent to manufacture
 13 methamphetamine, a schedule II controlled substance under
 14 IC 35-48-2-6, commits a Class D felony. However, the offense is a
 15 Class C felony if the person possessed:
 - 16 (1) a firearm while possessing ~~anhydrous ammonia or ammonia~~
 17 ~~solution (as defined in IC 22-11-20-1)~~ **one (1) or more chemical**
 18 **reagents or precursors** with intent to manufacture
 19 methamphetamine, a schedule II controlled substance under
 20 IC 35-48-2-6; or
 - 21 (2) ~~anhydrous ammonia or ammonia solution (as defined in~~
 22 ~~IC 22-11-20-1)~~ **one (1) or more chemical reagents or**
 23 **precursors** with intent to manufacture methamphetamine, a
 24 schedule II controlled substance under IC 35-48-2-6 in, on, or
 25 within one thousand (1,000) feet of:
 - 26 (A) school property;
 - 27 (B) a public park;
 - 28 (C) a family housing complex; or
 - 29 (D) a youth program center.
- 30 (c) A person who possesses two (2) or more chemical reagents or
 31 precursors with the intent to manufacture:
 - 32 (1) Methcathinone, a schedule I controlled substance under
 33 IC 35-48-2-4;
 - 34 ~~(2) Methamphetamine, a schedule II controlled substance under~~
 35 ~~IC 35-48-2-6;~~
 - 36 ~~(3)~~ **(2)** Amphetamine, a schedule II controlled substance under
 37 IC 35-48-2-6; or
 - 38 ~~(4)~~ **(3)** Phentermine, a schedule IV controlled substance under

1 IC 35-48-2-10;
2 commits a Class D felony.

3 (d) An offense under subsection (c) is a Class C felony if the person
4 possessed:

5 (1) a firearm while possessing two (2) or more chemical reagents
6 or precursors with intent to manufacture methamphetamine; a
7 schedule H controlled substance under IC 35-48-2-6; or

8 (2) two (2) or more chemical reagents or precursors with intent to
9 manufacture methamphetamine; a schedule H controlled
10 substance under IC 35-48-2-6 in, on, or within one thousand
11 (1,000) feet of:

12 (A) school property;

13 (B) a public park;

14 (C) a family housing complex; or

15 (D) a youth program center.

16 (d) A person who sells, transfers, distributes, or furnishes a
17 chemical reagent or precursor to another person with knowledge
18 or the intent that the recipient will use the chemical reagent or
19 precursors to manufacture methamphetamine, methcathinone,
20 amphetamine, or phentermine commits unlawful sale of a
21 precursor, a Class D felony.

22 SECTION 8. IC 35-48-4-17 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2003]: Sec. 17. (a) In addition to any other penalty imposed for
25 conviction of an offense under this chapter involving the
26 manufacture or intent to manufacture methamphetamine, a court
27 shall order restitution under IC 35-50-5-3 to cover the costs, if
28 necessary, of an environmental cleanup incurred by a law
29 enforcement agency or other person as a result of the offense.

30 (b) The amount collected under subsection (a) shall be used to
31 reimburse the law enforcement agency that assumed the costs
32 associated with the environmental cleanup described in subsection
33 (a).

34 SECTION 9. [EFFECTIVE JULY 1, 2003] (a) IC 35-48-4-13.3, as
35 added by this act, and IC 35-48-4-14.5, as amended by this act,
36 apply only to acts committed after June 30, 2003.

37 (b) IC 35-48-1-9.3 and IC 35-48-4-0.5, both as added by this act,
38 apply only to a controlled substance offense under IC 35-48-4 that

- 1 **occurs after June 30, 2003.**
 (Reference is to HB 1082 as introduced.)

and when so amended that said bill do pass.

Representative Weinzapfel